HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.442 OF 2005

Mohan shet. ..Petitioner.

Versus.

Union of India & Ors. ..Respondents.

Mr.S.K.Chaurasia i/b Yogesh M. Rohira, Advocate for the Petitioner.

Mr.J.C.Satpute, Advocate for the Respondent.

Mr.D.P.Adsule, APP for State.

CORAM: V.M.KANADE,J

DATE: MARCH 16, 2005.

P.C.

1. Heard the learned counsel on behalf of the petitioner and Union of India and the learned APP for the State.

2. Petitioner has filed this petition for quashing complaint filed against him by the Union of India. Brief facts are that currency notes of Rs.75 Lakhs were seized from the house of the petitioner and thereafter adjudication proceedings were initiated against him. Criminal Complaint was also filed in the Court of Chief Metropolitan Magistrate, Mumbai. It is admitted position

that the petitioner succeeded in the adjudication proceedings and order to that effect was passed in his favour. Initially, an order was passed against the petitioner against which an appeal was preferred before the Tribunal. The petitioner succeeded before the Customs Excise and Gold(Control) Appellate Tribunal(CEGAT). Copy of the order is annexed at Exh.A. It is submitted that in view of this order, the complainant is liable to be quashed. The learned counsel appearing on behalf of the Union of India has submitted that after taking instructions from the officers that in such an event this court can exercise its inherent powers and quash the complaint. My attention is drawn to two Judgments; one of Delhi High Court and the second is of Karnataka High Court, wherein similar view has been taken. In view of this, since Union of India is not willing to prosecute the petitioner in view of the order of CEGAT, complaint filed against the petitioner is quashed and set aside. Petition is allowed in above terms.

(V.M.KANADE,J)